IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5509 OF 2005

Shri.Praveen Shankar Jagtap ...Applicant.

Versus

The State of Maharashtra
and anr. ...Respondents.

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Mr.Sachin Thorat, Advocate for the Applicant.

Mr.Y.M.Nakhwa, APP, for the State.

Mr.Pramod Kaithane, Advocate for Respondent No.2.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : OCTOBER 19, 2006.

P.C.:

1. Heard Mr.Thorat the learned counsel for the applicant-original accused, Mr.Kaithane, the learned counsel for respondent No.2-original complainant, and Mr.Nakhwa, the learned APP for the State.

2. The applicant has been convicted by the learned IInd Joint Judicial Magistrate, First

Class, Pune by judgment and order dated 27.6.2005 in SCC No.884 of 2004. By the said judgment and order, the learned Magistrate convicted the applicant under Section 138 of the Negotiable Instruments Act and sentenced him to suffer S.I. for four months and fine of Rs.5000/-, in default S.I. for two months. In addition thereto the applicant was directed to pay the cheque amount of Rs.2,50,000/- by way of compensation to the original complainant, in default to suffer further S.I. for four months.

3. Being aggrieved by the said judgment and order the applicant-accused preferred Criminal Appeal No.240 of 2005 before the Sessions Court and Pune. The said appeal came to be admitted. So also bail came to be granted to the applicant-accused in the sum of Rs.15,000/- by order dated 27.7.2005. However, bail was granted on the condition that the applicant-accused shall deposit the entire compensation amount of Rs.2,50,000/- within a month from the date of the order. Being aggrieved by this order, the

applicant has preferred the present application.

4. Mr.Thorat, the learned counsel for the applicant states that the applicant is not in a financial position to pay any further amount beyond Rs.65,000/-; and he has prayed that his appeal be heard by the Sessions Court without insisting on deposit of the entire compensation amount of Rs.2,50,000/-.

5. Pursuant to the order of this Court dated 13.9.2005, the applicant-accused has deposited an amount of Rs.65,000/- in the Sessions Court. Mr.Kaithane, the learned counsel for respondent No.2 - original complainant states that in view of the fact that Rs.65,000/- has been deposited by the applicant-accused, there is no objection to the appeal being heard by the Sessions Court on merits without insisting on deposit of the entire compensation amount and the bail being confirmed without insisting on deposit of Rs.2,50,000/-.

6. Looking to the facts and circumstances

stated above, the Sessions Court shall hear the Criminal Appeal No.240 of 2005 on merits without insisting that the applicant-accused deposits the entire compensation amount of Rs.2,50,000/- and the order granting bail to the applicant is confirmed. The condition for granting bail of deposit of entire amount of Rs.2,50,000/- is waived.

7. Criminal Application is disposed of in above terms.

(SMT.V.K.TAHILRAMANI,J.)